

REMARKS

This application has been reviewed in light of the Final Office Action mailed January 12, 2006. Reconsideration of this application in view of the below remarks is respectfully requested. Claims 2, 3, 5, 8 and 10 are pending in the application with Claims 2, 3, 5 and 10 being in independent form. By the present amendment, Claims 2, 3, 5 and 10 are amended. No new subject matter has been introduced into the disclosure by way of the present amendment.

I. Rejection of Claims 2, 3, 5, 8 and 10 Under 35 U.S.C. § 103(a)

Claims 2, 3, 5, 8 and 10 are rejected under 35 U.S.C. § 103(a) as being obvious over U.S. Patent No. 5,914,950 issued to Tiedemann Jr. et al. in view of U.S. Patent No. 5,914,950 issued to Tanaka et al.

Applicant's invention notifies each mobile station of the determined maximum transmission rate of each of the plurality of transmission channels. Each transmission channel is assigned a maximum transmission rate independently of the transmission rates of the other transmission channels.

Tiedemann Jr. et al. discloses that channel selector 12 selects the minimum transmission rate from the list of maximum supportable transmission rates. The selected minimum transmission rate is defined as the maximum scheduled transmission rate for a scheduled user (i.e., mobile station). (See: col. 11, line 65 – col. 12, line 6).

Consequently, it is evident that in Tiedemann Jr. et al. this same maximum scheduled transmission rate is assigned to all of the plurality of transmission channels of the scheduled user. Thus, each transmission channel of the scheduled user disclosed in Tiedemann Jr. et al. operates at the same transmission rate, regardless of whether a particular transmission channel is capable of a higher transmission rate. The result of the Tiedemann Jr. et al. disclosed invention is a

communications link that can maintains a consistent transmission rate across all the transmission channels used.

Contrastingly, Applicant's invention provides the maximum transmission rate possible by each transmission channel irrespective of the maximum transmission rate provided by any of the other transmission channels.

Tanaka et al. fails to overcome the above-identified deficiency as well. Namely, Tanaka et al. fails to disclose or suggest determining a maximum transmission rate for each of a plurality of transmission channels for a next scheduled transmission time slot for each said mobile station and notifying each mobile station of the determined maximum transmission rate of each of the plurality of transmission channels.

In an effort to clarify the above-identified feature distinguishing Applicant's claimed invention over the cited prior art, Claims 2, 3, 5 and 10 have been amended to recite the limitation of: "...each of said plurality of transmission channels having a separate maximum transmission rate..." thus making clear that each transmission channel is assigned a maximum transmission rate independent of the other transmission channels. Claim 8 depends from independent Claim 5 and thus includes all the limitations recited by that independent claim.

Consequently, Tiedemann Jr. et al. and Tanaka et al. taken alone or in any proper combination fail to disclose or suggest Applicant's invention as recited in Claims 2, 3, 5 and 10. Therefore, for at least the reasons given above, Claims 2, 3, 5, 8 and 10 are believed to be patentably distinct and allowable over the cited prior art references. Accordingly, Applicant respectfully requests withdrawal of the rejection with respect to Claims 2, 3, 5, 8 and 10 under 35 U.S.C. § 103(a) over Tiedemann Jr. et al. in view of Tanaka et al.

CONCLUSIONS

In view of the foregoing amendments and remarks, it is respectfully submitted that all claims presently pending in the application, namely, Claims 2, 3, 5, 8 and 10 are believed to be in condition for allowance and patentably distinguishable over the art of record.

If the Examiner should have any questions concerning this communication or feels that an interview would be helpful, the Examiner is requested to call Applicant's undersigned attorney at the number indicated below.

Respectfully submitted,



Paul J. Esatto, Jr.

Registration No. 30,749

SCULLY, SCOTT, MURPHY & PRESSER, P.C.
400 Garden City Plaza - Ste. 300
Garden City, New York 11530
(516) 742-4343

PJE:DAT:jam